IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: THE COMMISSION ON STATEWIDE RULES OF CRIMINAL PROCEDURE

ADKT 0491

FILED
OCT 15 2020
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

FINAL REPORT AND RECOMMENDATIONS OF THE COMMISSION ON STATEWIDE RULES OF CRIMINAL PROCEDURE

The Nevada Supreme Court convened the Commission on Statewide Rules of Criminal Procedure in early 2015 to address a lack of uniformity of criminal procedure rules across the state of Nevada.

In January 2019, the Court appointed Justice James W. Hardesty to serve as chairperson of the Commission with Justice Abbi Silver and Justice Lidia Stiglich serving as co-vice chairs. On February 22, 2019, the Nevada Supreme Court amended the Commission on Statewide Rules of Criminal Procedure membership and appointed the individuals listed in Exhibit A to serve on the Commission.[1]

Under this current leadership, the Commission held 18 meetings during which it examined key criminal procedures and rules currently in effect across the state. From this, the Commission has developed and approved 17 statewide criminal procedure rules for recommendation to the Nevada Supreme Court for adoption. Exhibit B presents the recommended rules and provides the date of Commission approval and the final Commission vote counts for each. Meeting summaries, proposed rule drafts,

[1]In July 2020, after consistent participation, Mr. Christopher Lalli and Mr. Luke Prengaman were appointed to the Commission in place of Mr. Steven Wolfson and Mr. Christopher Hicks, respectively. In addition to those appointed to serve, the Commission has benefitted from the participation of the following individuals: Chief Judge Linda Bell, Judge Tiara Jones, Mr. Alex Chen, Ms. Alysa Grimes, Ms. Sharon Dickinson, and Mr. John Petty.

20-37972

supporting documentation, and details regarding Commission votes are provided on the Commission on the Statewide Rules of Criminal Procedure webpage.

At the close of the September 21, 2020, meeting, the Honorable Justice James Hardesty, as Chair, informed attendees that the approved rules would be presented to the Nevada Supreme Court for consideration and, as such, the Commission's current work is complete. The Commission reports that the Jury Instructions Work Group remains the only active subcommittee of the Commission and will continue to meet until its work is completed.

The Commission on Statewide Rules of Criminal Procedure recommends that the Nevada Supreme Court adopt the statewide rules as presented in Exhibit B.[2]

Accordingly, the Commission on Statewide Rules of Criminal Procedure requests that the Nevada Supreme Court place this matter on its administrative docket and hold such public hearings as it deems necessary to consider the Commission's recommendations.

Respectfully submitted,

Hardesty, J.

Stiglich, J.

Silver, J.

[2]Rules 6, 12, 13 and 16 designated "Reserved" are not recommended by the Commission and should be removed with all Rules adopted by the Nevada Supreme Court renumbered accordingly.

EXHIBIT A

Commission on Statewide Rules of Criminal Procedure
Membership Roster

1. Justice James Hardesty, Chair
   Nevada Supreme Court
2. Justice Abbi Silver, Co-Vice Chair
   Nevada Supreme Court
3. Justice Lidia Stiglich, Co-Vice Chair
   Nevada Supreme Court
4. Mr. John Arrascada
   Public Defender, Washoe County
5. Judge Scott Freeman
   Second Judicial District Court, Dept. 9
6. Judge Douglas Herndon
   Eighth Judicial District Court, Dept. 3
7. Mr. Darin Imlay
   Public Defender, Clark County
8. Mr. Mark Jackson
   District Attorney, Douglas County
9. Mr. Christopher Lalli
   District Attorney's Office, Clark County
10. Mr. Luke Prengaman
    District Attorney's Office, Washoe County
11. Ms. Lisa Rasmussen
    Private Counsel, Southern Nevada
12. Judge James Shirley
    Eleventh Judicial District Court
13. Mr. John Springgate
    Private Counsel, Northern Nevada
14. Ms. JoNell Thomas
    Special Public Defender, Clark County

EXHIBIT B

Proposed Nevada Rules of Criminal Practice for the District Courts of the State of Nevada

Contents

Rule 1: Scope, Purpose and Construction

These rules govern all criminal actions in the District Courts of the State of Nevada. The purpose of these criminal rules is to provide uniformity in practice among the various district courts. These rules supersede and replace any local district court rules concerning criminal actions. They are intended to provide for the just and fair administration of criminal actions. They shall be cited as "N.R.Cr.P.".

These rules do not apply to juvenile proceedings or post-conviction proceedings.

Rule 2: Case Assignment

Approved: 8/5/20

Vote: 10 Yes; 3 No; 1 Abstain/No Response

1. **Single-defendant cases.** In a judicial district having two or more district court judges, each criminal action involving a single defendant shall be randomly assigned to a department of the court and shall remain in such department until final disposition of the action, unless:
    (A) the action is brought against a defendant who is the subject of another pending or reopened action in the court, in which case the action shall be assigned to the department of the most recent other action; or
    (B) otherwise ordered by the chief judge consistent with a plan of court-wide case management.
2. **Multiple-defendant cases.** In a judicial district having two or more district court judges, each criminal action involving two or more defendants charged together in the same information or indictment shall be randomly assigned to a department of the court and shall remain in such department until final disposition of the action, unless:
    (A) one of the defendants is the subject of another pending or reopened action in the court, in which case the action shall be assigned to the department of the most recent other action; or
    (B) two or more of the defendants are the subjects of other pending or reopened actions in the court, in which case the action shall be assigned to the department of the most recent other action; or
    (C) otherwise ordered by the chief judge consistent with a plan of court-wide case management.
3. A criminal action involving one or more defendants charged together in the same criminal complaint in the justice court, but not bound over to the district court on the same date, shall be assigned to a department pursuant to subsection (1) or subsection (2), as appropriate, based upon the identity of the first defendant or defendants bound over to the district court. Any co-defendant or co-defendants charged in the criminal complaint who are bound over on a later date shall be assigned to the same department unless otherwise ordered by the chief judge consistent with a plan of court-wide case management.
4. Unless otherwise ordered by the chief judge, upon the assignment of a criminal action involving two or more defendants to a department of the court in accord with subsection (2) or subsection (3), all other pending actions involving any of the defendants charged in the information or indictment shall be transferred to the same department.
5. When a defendant is remanded from a department of the district court to a justice court for preliminary examination or further proceedings relating to a criminal action, any subsequent proceedings upon the same criminal action in the district court shall be assigned to the same department.
6. When the trial of a criminal action occurs in a department of the district court other than the department assigned pursuant to subsection (1) or subsection (2), sentencing in the action should occur in the department in which the trial occurred.

Rule 3: Appearance and Withdrawal of Attorney

Approved: 9/27/19

Vote: Approved by verbal, general consent vote

1. When an individual has appeared by an attorney, that individual cannot appear on the individual's own behalf in the case without the consent of the court. An attorney who has appeared for any party shall represent that party in the case and shall be recognized by the court and by all parties as having control of the client's case until: the attorney withdraws; another attorney is substituted; or the attorney is discharged by the client in writing, filed with the court. The court in its discretion may hear an individual in open court although the individual is represented by an attorney.
2. An attorney in any case may be changed:
    (A) When a new attorney substitutes in place of the attorney withdrawing. In this circumstance, consent of the incoming attorney and the client and acknowledgment of the outgoing attorney shall be filed with the court and served upon all parties or their attorneys; or
    (B) When no attorney has been retained to replace the attorney withdrawing. In this circumstance, withdrawal must be requested by a properly noticed motion and ordered by the court.
        (i) If the attorney makes the motion, the attorney shall include in a declaration the address, or last known address, phone number and email address at which the client may be served with notice of further proceedings. The attorney shall serve a copy of the motion and supporting papers upon the client and all other parties to the action or their attorneys.
        (ii) If the motion is made by the client, the client shall include the address, phone number and email address at which the client may be served with notice of all further proceedings, and shall serve a copy of the application upon the attorney and all other parties to the action or their attorneys.
    (C) When a direct appeal has been concluded or the time for filing a notice of appeal has expired, the attorney may file a notice of withdrawal.
3. The substituted attorney shall transfer all files and discovery to individual's new attorney within 5 days of the substation unless otherwise ordered by the court.
4. Any order permitting withdrawal of an attorney shall contain the address, phone number and email address at which the party is to be served with notice of all further proceedings.
5. Except for good cause shown, no application for withdrawal or substitution shall be granted if a delay of the trial or of the hearing of any other matter in the case would result. Discharge of an attorney may not be grounds to delay a trial or other hearing.
6. An entity may not appear in proper person.

Rule 4: Initial Appearance and Arraignment

Approved: 10/14/20

Vote: 8 Yes; 5 No; 1 Abstain/No Response

Initial appearance and arraignment.

1. Defendant charged by information.
   (A) If a defendant has been charged by information, the initial appearance of the defendant before the district court shall be scheduled within 11 judicial days of the date of transmission of the record from the justice court to the clerk of the district court if the defendant was in custody at the time of bindover, unless:
      (i) Waived by the defendant in a written document signed by the defendant;
      (ii) The number of other cases pending in the court prohibits scheduling the initial appearance within that time; or
      (iii) Continued by the court for good cause shown.
   (B) At the initial appearance of the defendant before the district court, the court shall:
      (i) Supply the defendant a copy of the information unless the charging document has previously been made available to the defendant through e-filing;
      (ii) If necessary, determine whether the defendant qualifies for appointed counsel and, if so, appoint counsel to represent the defendant. In such event, newly appointed counsel shall upon the defendant's request, be given an extension of time of up to 5 days before entry of plea;
      (iii) Arraign the defendant upon all charges in the information;
      (iv) If the defendant enters a plea of not guilty, set the dates for trial, pretrial motions, evidentiary hearings or status conferences.
2. Defendant charged by indictment.
   (A) If the defendant has been charged by indictment, and:
      (i) The indictment addresses the same charges or subject matter as a criminal complaint pending in a parallel proceeding in the justice courts, and the warrant issued upon the indictment sets bail or conditions of pretrial release that exceed the prevailing bail or conditions of release set by the magistrate in the parallel proceeding; or
      (ii) There is no criminal complaint pending in a parallel proceeding in the justice courts addressing the same charges or subject matter as the indictment; or
      (iii) The defendant has not previously been afforded a prompt adversarial hearing regarding bail or conditions of release regarding the charges or subject matter contained in the indictment; and
      (iv) The defendant is not under sentence of imprisonment in the custody of the Nevada Department of Corrections at the time of arrest upon the indictment;

   the court shall conduct an adversarial hearing within 3 judicial days of arrest to determine whether detention is warranted and fix appropriate conditions for the defendant's release from custody or fix appropriate bail.
   (B) Unless otherwise required by subsection (A), the initial appearance before the district court of a defendant charged by indictment shall be scheduled:
      (i) Within 7 judicial days of the date of the defendant's arrest upon the indictment; or

(ii) Within 15 judicial days of the date the defendant is served with a summons upon the indictment;

unless waived by the defendant or continued by the court for good cause shown.

(C) At the initial appearance of the defendant charged by indictment before the district court, the court shall:

(i) Supply the defendant a copy of the indictment unless the charging document has previously been made available to the defendant through e-filing;

(ii) If necessary, determine whether the defendant qualifies for appointed counsel and, if so, appoint counsel to represent the defendant. In such event, newly appointed counsel shall upon the defendant's request, be given an extension of time of up to 5 days before entry of plea;

(iii) Arraign the defendant upon all charges in the indictment;

(iv) If the defendant enters a plea of not guilty, set the dates for trial, pretrial motions, evidentiary hearings or status conferences.

3. Sentencing or transfer.

(A) If the defendant enters a plea of guilty, guilty but mentally ill, or nolo contendere, the court may, as appropriate, defer judgment in accord with NRS 176.211; suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a specialty court program pursuant to NRS Chapter 176A; transfer the action to a court or a department of the court for the purpose of assigning the defendant into an appropriate program or treatment plan, or order a presentence report and set a sentencing date.

4. Waiver of presentence report

(A) Subject to the provisions of NRS 176.135, a presentence report may be waived and sentence imposed at the entry of a plea of guilty, guilty but mentally ill, or nolo contendere.

Rule 5: Release and Detention Pending Judicial Proceedings

Approved: 10/14/20

Vote: 8 Yes; 5 No; 1 Abstain/No Response

1. Defendant charged by indictment.
    (A) At the indictment return hearing, conditions of pretrial detention or release must be considered as follows:
        (i) If the indictment addresses the same charges as a criminal complaint pending in a parallel proceeding in justice court, any pretrial detention conditions shall presumptively remain the same as the pretrial detention conditions set in justice court. This presumption is rebuttable and the district court may change the pretrial detention conditions based on a change of circumstances as stated upon the record.
        (ii) If the indictment contains any additional or different charges from the criminal complaint pending in a parallel proceeding in justice court, and the State seeks to change the pretrial detention conditions set in the parallel proceeding in justice court, then the district court shall issue a summons or issue a warrant. Additionally, the district court shall determine pretrial detention conditions based on the information available to the district court at the time of the indictment return.
        (iii) If there is no criminal complaint pending in a parallel proceeding in justice court addressing the same charges as the indictment, then the district court shall issue a summons or issue a warrant. The district court shall also determine pretrial detention conditions based on the information available to the district court at the time of the indictment return.
2. Motions to change the defendant's pretrial detention status.
    (A) A defendant charged by information who has not previously received or waived in the justice court an adversarial hearing addressing bail or conditions of release upon the charges or subject matter contained in the information may make a written request for such a hearing after bind over to the district court. The written request must certify that the defendant did not previously receive or waive an adversarial hearing addressing bail or conditions of release in the justice court. The district court shall promptly hold such a hearing. The prosecutor may respond orally at the hearing to any points raised in the defendant's written request.
    (B) All motions to change the defendant's pretrial detention status following the defendant's initial post-arrest individualized detention determination shall be in writing, supported by an affidavit or declaration by the movant or the movant's attorney.

Rule 7: Discovery/Discovery Motions

Approved: 6/10/19

Vote: Approved by verbal, general consent vote

1. The parties, through their counsel, without order of the court, shall timely provide discovery of all information and materials permitted by any applicable provision of the Nevada Revised Statutes.
2. The content, timing, manner and sequence of any additional discovery shall be directed by the court at the initial appearance or as soon thereafter as reasonably practicable. At the request of either party, an earlier hearing before the district court on the status of discovery, or other matters in the case, will be required where requested in advance of the statutory time period for production of discovery.
3. Any discovery dispute shall be brought to the attention of the court expeditiously by telephone conference, on the record, with the court and all counsel, on oral application in open court or a written motion.
4. The court may impose appropriate sanctions for the failure of a party or counsel to comply with any discovery obligation imposed by law or ordered by the court.

Rule 8: Pretrial Motions

Approved: 5/27/20

Vote: 13 Yes; 0 No; 1 Abstain/No Response

Motions.

1. Time for filing.
   (A) Unless otherwise provided by law, by these rules, or by written scheduling order entered by the court in the particular case, all pre-trial motions, including motions to suppress evidence, to exclude or admit evidence, for a transcript of former proceedings, for a preliminary hearing, for severance of joint defendants, for withdrawal of counsel, and all other motions which by their nature, if granted, delay or postpone the time of trial, must be made in writing and served and filed not less than 15 days before the date set for trial.
   (B) If a pretrial motion is filed 15 days or less prior to trial, it shall be served upon the opposing party on the date of filing by one of the following means: electronic mail, if the party being served consents in writing in the manner described in section iv; personal service; or e-filing.
   (C) The court may decline to consider any motion filed in violation of this rule. The court will only consider a motion in limine made later than 15 days before the date of trial if there is good cause for making the motion at a later date. Good cause may include, but is not limited to, that an opportunity to make such a motion before trial did not exist or the moving party was not aware of the grounds for the motion before trial. A pretrial motion made later than 15 days before the trial date shall be accompanied by an affidavit or declaration demonstrating good cause for making the motion at the later date.
   (D) In jurisdictions without electronic filing, a party may agree to accept electronic service by filing and serving a notice. The notice must include the electronic notification address(es) at which the party agrees to accept service.
2. Hearing of motions in the Eighth Judicial District.
   The court shall set a hearing for each motion. Unless an evidentiary hearing upon a motion is required by law, the court may consider a motion on its merits at any time after the reply is filed or after the time for filing a reply, with or without oral argument.
3. Hearings and Submissions of motions in judicial districts other than the Eighth Judicial District.
   (A) Hearings on Motions
      (i) For all judicial districts other than the Eighth Judicial District, all motions shall be decided without oral argument unless 1) requested by a party and ordered by the court, or 2) ordered by the court of its own accord.
      (ii) If a hearing upon a motion is required by law or requested by a party and a hearing for pretrial motions has not already been set in the case, the party seeking the hearing shall file a Notice of Request for Hearing on the date the motion is filed. The Notice of Request for Hearing shall identify the motion for which the hearing is requested, shall state whether the hearing is anticipated to be evidentiary or consist only of oral argument of the motion, and shall be filed in substantially the form set forth below.

CODE
ATTORNEY NAME
BAR NUMBER
ADDRESS
CITY, STATE, ZIP CODE
PHONE NUMBER
ATTORNEY FOR:

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,
vs.
RICHARD ROE,
Defendant.

Case No. CR99-00000

Dept. No. .....

[REQUEST FOR ORAL ARGUMENT OF MOTION]
[REQUEST FOR EVIDENTIARY HEARING UPON MOTION]

The Defendant hereby requests a hearing upon the Motion to Suppress Evidence filed on January 1, 2010. This hearing is anticipated to be evidentiary.

Sample Pleading

(B) Submissions of Motions

(i) No submission of Motion is necessary in the Third, Fourth, Eighth or Ninth Judicial Districts

(ii) In the First, Second, Fifth, Sixth, Seventh, Tenth and Eleventh Judicial Districts a request for submission must be filed after a reply is filed, or after the time for filing a reply has expired. Any party may submit the motion for decision by filing and serving upon all parties a written request to submit the motion by substantially the form set forth below. A request for submission must appear in substantially the form set forth below.

THE STATE OF NEVADA,

Plaintiff,
vs.
RICHARD ROE,
Defendant.

Case No. CR99-00000

Dept. No. .....

REQUEST TO SUBMIT MOTION

It is requested that the MOTION TO SUPPRESS EVIDENCE filed on January 1, 2020, be submitted to the court for decision.

Sample Pleading

(iii) The court may decline to consider any motion that has not been submitted in accord with this rule.

4. Oppositions to motions.
   (A) Within 10 days after the service of a motion, the opposing party must serve and file written opposition.
   (B) Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion is meritorious and a consent to granting of the same.
   (C) If an opposition to a motion is filed 5 days or less prior to trial, it shall either be personally served upon the opposition on the date of filing or be e-filed.
5. Replies.
   Unless otherwise ordered by the court, any reply shall be filed on or before the judicial day which falls 3 calendar days after service of the response.
6. Points and authorities supporting motions.
   Any pretrial motion and opposition shall contain or be accompanied by points and authorities in support of each ground thereof and any affidavits or declarations relied upon. The absence of such points and authorities may be construed as an admission that the motion is not meritorious, as cause for its denial, or as a waiver of any ground not so supported.
7. Rehearing of motions.
   (A) No motion once heard and disposed of shall be renewed in the same cause, nor shall the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.
   (B) A party seeking reconsideration of a ruling of the court must file a motion for such relief within 5 days after entry of the order or judgment, unless the time is shortened or enlarged by order.
   (C) A motion for rehearing or reconsideration must be served, filed, and heard as is any other motion. A motion for rehearing does not toll any applicable period for filing a notice of appeal from a final order or judgment.
   (D) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument, or may restore it to the calendar for reargument or resubmission, or may make such other orders as are deemed appropriate under the circumstances of the particular case.

Rule 9: Pretrial Writs of Habeas Corpus

Approved: 10/29/19

Vote: Approved by verbal, general consent vote

1. Each petition for a writ of habeas corpus based on alleged lack of probable cause or otherwise challenging the court's right or jurisdiction to proceed to the trial of a criminal charge shall contain a notice of hearing, or application for a hearing date, setting the matter for hearing 14 days from the date the petition is filed and served. In the event the judge to whom the case is assigned is not scheduled to hear motions on the 14th day following the service and filing of the petition, the notice must designate the next available day when the judge has scheduled the hearing of motions.
2. Any other pretrial petition for writ of habeas corpus, including those alleging a delay in any of the proceedings before the magistrate or a denial of the petitioner's right to a speedy trial in justice court or municipal court, shall contain a notice of hearing setting the matter for hearing not less than 1 full judicial day from the date the writ is filed and served.
3. All points and authorities in support of the petition for writ of habeas corpus shall be served and filed at the time of the filing of the petition. The prosecutor shall serve and file a return and a response to the petitioner's points and authorities within 10 days from the receipt of a petition for a writ of habeas corpus based on alleged want of probable cause or otherwise challenging the court's rights or jurisdiction to proceed to the trial of a criminal charge. In proceedings under subsection2, the prosecutor may serve and file a return and a response to the petitioner's points and authorities in open court at the time noticed for the hearing on any other writ of habeas corpus set for hearing in one day.
4. The court reporter who takes down all the testimony and proceedings of the preliminary hearing must, within 15 days after the defendant has been held to answer in the district court, complete the certification and filing of the preliminary hearing transcript. Upon filing the transcript, the court reporter or recorder will notice the defense attorney and prosecutor who handled the preliminary hearing.
5. The court may extend, for good cause, the time to file a petition. If the preliminary hearing transcript is not filed at the time of the defendant's initial arraignment, the court shall find good cause for extending the time for the filing of the petition. A party may obtain an ex parte order from the court allowing for an extension if the preliminary transcripts are not available within 14 days of the defendant's initial appearance. All other applications to extend the 21 day time period must include appropriate notice to the prosecuting attorney. A stipulation between the prosecutor and the defense will suffice for appropriate notice for the court to grant the extension.
6. Any writ filed on a criminal case at the district court level shall be assigned to the same department where the underlying criminal case is filed. If no such previous criminal case exists, the writ shall be randomly assigned to a department.

Rule 10: Stay Orders

Approved: 10/29/19

Vote: Approved by verbal, general consent vote

1. A party may move in the district court for an order staying a lower court proceeding or order where the party:
   (A) Has first requested a stay of the proceeding or order in the lower court and that court has denied the request; or
   (B) Can demonstrate that moving first in the lower court would be impracticable.
2. The party moving for a stay must provide the lower court's reasons for denying the requested stay, where applicable, and make a preliminary showing why there may be a miscarriage of justice if the stay is not granted.
3. The district court may grant or deny the motion for stay, or order such other relief as may be warranted in the circumstances.

Rule 11: Extending or Shortening Time

Approved: 10/29/19
Vote: Approved by verbal, general consent vote

1. When an act must be done at or within a specified time, the court may extend or shorten the time period by its own discretion, or by oral or written motion for good cause. A request to extend must be made before the time period would have originally expired.
2. All motions to extend or shorten time shall be made with at least three judicial days' notice to all counsel. Motions shall be made to the assigned judge, or, if the assigned judge is not available, to another judge in the same division, or the presiding judge who shall set a hearing on the motion. All hearings on motions to extend or shorten time shall be held with at least one day notice to all counsel.
3. Ex parte motions to extend or shorten time shall only be granted upon affidavit or certificate of counsel demonstrating a good faith effort to notify opposing counsel and good cause to extend or shorten time. Ex parte orders must be served upon the opposing party by the end of the next judicial day.
4. The court may not extend time for writs of habeas corpus except as outlined under that rule.
5. These rules do not apply to jurisdictional time limits.

Rule 14: Sentencing

Approved: 6/15/20

Vote: 10 Yes; 3 No; 1 Abstain/No Response

1. Sentence must be imposed without unreasonable delay.
2. Counsel shall assist the court in setting a sentencing date. The State or the defense must notify the court at the time of the entry of plea, or as soon thereafter as is practicable, whether the sentencing hearing needs a special setting or time frame to present due to the nature of the case, witnesses, victim impact statements, or expert testimony. The court may set these special sentencing hearings on dates and times different from the department's customary sentencing calendar.
3. Counsel shall, unless otherwise permitted by the court, have all reports, sentencing memorandums, exhibits, written victim impact statements, and any other writing or documentation that counsel intends to rely upon at the sentencing hearing filed with the court and served on opposing counsel no later than three judicial days before the sentencing hearing date.
    (A) Documents presented less than three judicial days from the sentencing date constitutes good cause by the non-offering party to continue the sentencing hearing. The non-offering party may however waive a continuance if there is no objection to the documents, in which case the sentencing hearing shall be held, and the court may consider the documents.
    (B) If documents are offered less than three judicial days from the sentencing date and the non-offering party elects not to continue the sentencing hearing, but objects to the presentation of the documents, a court may, in the interest of justice, refuse to consider the documents or elect to consider the documents at sentencing over the objection or continue the sentencing hearing on its own motion.
4. The court shall not consider any ex parte communication, letter, report, or other document but shall promptly notify counsel for all parties, on the record, of any attempted ex parte communication or document submission.
5. Any witness who gives oral testimony at the sentencing hearing must be sworn.
6. Pending sentence, the court may commit the defendant to custody or continue or alter the bail.

Rule 15: Continuances

Approved: 6/15/20
Vote: 13 Yes; 0 No; 1 Abstain/No Response

1. Any party may, for good cause, move the court for an order continuing the day set for trial of a criminal case. A motion for continuance of a trial, whether made by the prosecuting attorney or counsel for the defendant, must be supported by affidavit except where it appears to the court that the moving party did not have the time to prepare an affidavit, in which case counsel for the moving party must be sworn and orally testify to the same factual matters as required for an affidavit. Counter-affidavits may be used in opposition to the motion.
2. If a motion for continuance of a criminal trial is made on the ground that a witness is or will be unavailable or absent at the time of trial, the affidavit must state:
    (A) The name of the witness, the witness' last known address and present location, if known, the reason for the witness' unavailability or absence, and the length of time that the witness will be unavailable.
    (B) What diligence has been used to procure attendance of the witness.
    (C) What the affiant has been informed and believes will be the testimony of the unavailable witness, and whether the same facts can be proven by other witnesses.
    (D) The date the affiant first of the witness' unavailability or absence.
    (E) That the application is made in good faith and not merely for delay.
3. No continuance of a criminal trial may be granted unless the contents of the affidavit conform to this rule.
4. Trial settings in criminal cases may not be vacated by stipulation absent order of the court. Stipulations or requests for the continuance of a trial shall be in writing, signed by counsel and the defendant. The court may waive the signature of the defendant provided counsel for the defendant certifies in writing in the stipulation or affidavit attached thereto that he or she has obtained the consent of the defendant to the continuance.
5. A court may accept a stipulation of the parties or request for the continuance of a proceeding other than a criminal trial in open court, or may direct that such stipulations or requests be in writing, signed by counsel. Any such stipulation or request not made in open court must be in writing, signed by counsel.

Rule 17: Voir Dire

Approved: 5/27/20
Vote: 8 Yes; 0 No; 6 Abstain/No Response

1. Method of selection.
   The court shall summon the number of the jurors who are to try the cause plus such an additional number as will allow for any alternates, for all peremptory challenges permitted by law, and for all challenges for cause granted. Jurors summoned will form the venire.

   At the direction of the judge, the clerk shall call jurors in random order to form the panel. The number of prospective jurors called to form the panel shall be equal to the sum of regular jurors, alternate jurors, and the number of peremptory challenges allowed. The judge shall hear and determine challenges for cause during the course of questioning. The judge may hear and determine challenges for cause outside the hearing of prospective jurors. At the request of any party, the judge shall hear and determine challenges for cause outside the hearing and presence of prospective jurors. After each challenge for cause sustained, another juror shall be called to fill the vacancy, and any such new juror may be challenged for cause.

   After both sides have passed the panel for cause, the clerk shall provide a list of the prospective jurors remaining, and each side, beginning with the prosecution, shall indicate thereon its peremptory challenge to one juror at a time in regular turn, as the court may direct, until all peremptory challenges are exhausted or waived. Peremptory challenges shall be made outside the hearing of the prospective jurors.

   The clerk shall then call the remaining jurors, or so many of them as shall be necessary to constitute the jury, including any alternate jurors, and the persons whose names are called shall constitute the jury. If alternate jurors have been selected, the last jurors called shall be the alternates, unless otherwise ordered by the court.

2. Voir Dire.
   Examination of prospective jurors. Before persons whose names have been drawn are examined as to their qualifications to serve as jurors, the judge or the judge's clerk shall administer an oath or affirmation to them in substantially the following form:

   > *Do you, and each of you, (solemnly swear, or affirm under the pains and penalties of perjury) that you will well and truly answer all questions put to you touching upon your qualifications to serve as jurors in the case now pending before this court (so help you God)?*

   The judge shall conduct the initial examination of prospective jurors and the defendant or the defendant's attorney and the prosecuting attorney are entitled to supplemental examination, which must not be unreasonably restricted. Prior to examining the prospective jurors, the court shall have the clerk read the charging document. The court shall state that every person charged with the commission of a crime is presumed innocent. Use of written questionnaires to prospective jurors or the examination of individual prospective jurors outside the presence of the other prospective jurors is within the court's discretion.

The purpose of voir dire examination is to determine whether a prospective juror can and will render a fair and impartial verdict on the evidence presented and apply the facts, as the prospective juror finds them, to the law given. Questioning must be designed to elicit information relevant to possible challenges for cause or enabling the defendant or the defendant's attorney and the prosecuting attorney to intelligently exercise peremptory challenges. The judge may in the exercise of discretion halt cumulative or abusive questioning of prospective jurors, assist in the narrative content of particular questions, preclude counsel from interrogating on issues of law or case specific facts, or preclude any questioning if the judge finds such questioning to be outside the purpose of voir dire examination.

3. Challenges to venire.
   A challenge may be made to the venire.
   The venire is a list of prospective jurors called to serve at a particular court or for the trial of a particular action. A challenge to the venire is an objection made to all prospective jurors summoned and may be made by either party.
   (A) The challenge to the venire, including a contest to the venire's composition that the venire does not represent a fair cross section of the community under the Sixth and Fourteenth Amendments of the United States Constitution, must be made before the jury is sworn and made upon the record. It shall specifically set out the facts constituting the ground for the challenge.
   (B) If a challenge to the venire is opposed by the adverse party, a hearing may be held to try any question of fact upon which the challenge is based. The jurors challenged, and any other persons, may be called as witnesses at the hearing.
   (C) The court shall decide the challenge. If the challenge to the venire is sustained, the court shall discharge the panel so far as the trial in question is concerned. If the challenge is denied, the court shall direct the selection jurors to proceed.
   (D) If written questionnaires to prospective jurors are being used, a challenge to the venire must be made no later than the trial confirmation hearing, or, if additional time is permitted by the court, no later than the judicial day prior to the day on which trial is set to commence.

4. Challenges to individual jurors
   A challenge may be made to an individual juror.
   (A) A challenge to an individual juror may be either peremptory or for cause. A challenge to an individual juror must be made before the jury is sworn to try the case, except the court may, for good cause, permit it to be made after the juror is sworn but before any of the evidence is presented. Challenges for cause must be completed before any peremptory challenges.
   (B) A Batson challenge made during a peremptory strike must follow this three-step process: First, the opponent of the peremptory strike must make a prima facie showing that a peremptory challenge has been made on the basis of race or other recognized suspect classification. Second, if that showing has been made, the proponent of the peremptory strike must present a classification-neutral explanation for the strike. Third, the court must hear argument and determine whether the opponent of the peremptory challenge has proven purposeful discrimination. The court shall clearly state the reasons supporting its determination regarding the peremptory strike.

5. Peremptory challenges.

A peremptory challenge is an objection to a juror for which no reason need be given. If the offense charged is punishable by death or by life imprisonment, each side is entitled to eight peremptory challenges. If the offense is punishable by imprisonment for any other term or by fine or by both fine and imprisonment, each side is entitled to four peremptory challenges. The State and the defendant shall exercise their challenges alternatively, in that order. Any challenge not exercised in its proper order is deemed waived. When several defendants are tried together, they cannot sever their peremptory challenges but must join therein.

6. Challenges for cause.
A challenge for cause is an objection to a particular juror and shall be heard and determined by the court. Either side may challenge any individual juror for disqualification or for any cause or favor which would prevent the juror from adjudicating the facts fairly. The juror challenged and any other person may be examined as a witness on the hearing of such challenge. A challenge for cause may be taken on one or more of the following grounds. On its own motion the court may remove a juror upon the same grounds.
   (A) Want of any of the qualifications prescribed by law to render a person competent as a juror.
   (B) Any mental or physical infirmity which renders one incapable of performing the duties of a juror.
   (C) Consanguinity or affinity within the third degree to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted or the defendant.
   (D) The existence of any social, legal, business, fiduciary or other relationship between the prospective juror and any party, witness or person alleged to have been victimized or injured by the defendant, which relationship when viewed objectively, would suggest to reasonable minds that the prospective juror would be unable or unwilling to return a verdict which would be free of favoritism. A prospective juror shall not be disqualified solely because the juror is indebted to or employed by the state or a political subdivision thereof.
   (E) Having been or being the party adverse to the defendant in a civil action or having complained against or having been accused by the defendant in a criminal prosecution.
   (F) Having served on the grand jury which found the indictment.
   (G) Having served on a trial jury which has tried another person for a criminal charge arising out of the same facts or circumstances alleged in the case being tried.
   (H) Having been one of a jury formally sworn to try the same charge, and whose verdict was set aside, or which was discharged without a verdict after the case was submitted to it.
   (I) Having served as a juror in a civil action brought against the defendant for the act charged as an offense.
   (J) If the offense charged is punishable with death, the juror's views on capital punishment would prevent or substantially impair the performance of the juror's duties as a juror in accordance with the instructions of the court and the juror's oath.
   (K) Because the juror is or, within one-year preceding, has been engaged or interested in carrying on any business, calling or employment, the carrying on of which is a violation of law, where defendant is charged with a like offense.
   (L) Because the juror has been a witness, either for or against the defendant on the preliminary examination or before the grand jury.
   (M) Having formed or expressed an unqualified opinion or belief as to whether the defendant is guilty or not guilty of the offense charged, but exposure to any media

accounts of the case shall not disqualify a juror either for bias or opinion unless the juror has formed a state of mind evincing enmity or bias based on any media exposure.

(N) Conduct, responses, state of mind or other circumstances that reasonably lead the court to conclude the juror views would prevent or substantially impair the performance of his duties as a juror in accordance with his instruction and oath.

(O) The existence of a state of mind in the juror evincing enmity against orbias to either party.

7. Alternate jurors.

The court may impanel alternate jurors in order to replace any jurors who are unable to perform or who are disqualified from performing their duties. Alternate jurors must have the same qualifications and be selected and sworn in the same manner as any other juror. Alternate jurors shall not be informed of their status as an alternate juror during the pendency of the trial. If one or two alternate jurors are called, the prosecution and defense shall each have one additional peremptory challenge. If three or four alternate jurors are called, the prosecution and defense shall have two additional peremptory challenges. If five or six alternative jurors are called, the prosecution and defense shall each have three additional peremptory challenges. Alternate jurors replace jurors in the same sequence in which the alternates were selected. An alternate juror who replaces a juror has the same authority as the other jurors. The court shall retain alternate jurors for a return to duty, after the jury retires to deliberate. The court must ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged. If an alternate replaces a juror after deliberations have begun, the court shall recall the jury, seat the alternate and instruct the jury to begin its deliberations anew. The court shall admonish the jury as follows:

> Members of the jury, juror _____ is unable to continue to serve on the jury. Alternate juror _____ is now a member of the jury. You are instructed that all deliberations must be restarted in their entirety, any work performed in deliberations must start anew, and _____ must be part of the deliberations from the beginning. Deliberations may not be resumed; they must start anew. This case is resubmitted for deliberation.

8. Reached verdicts

Jurors may not deliberate anew a verdict already reached or entered during the guilt phase of the trial that has been entered upon the record. If an alternate juror is seated during the penalty phase, that alternate juror must be canvassed by the court and acknowledge on the record that the juror will accept the guilt phase verdicts rendered by the jury.

9. Deliberations in a Capital Case.

In a capital case, alternate jurors not selected to participate in the guilt phase deliberations must not be excused if the jury returns a guilty verdict of murder of the first degree. This rule governs their continued participation in the case. During the penalty phase of the trial, the alternate jurors must be present at the proceedings and listen to all the evidence and argument presented by counsel. When the jury retires to deliberate during the penalty phase, the alternate jurors may not participate in the deliberation. If a deliberating juror is excused during the penalty phase due to the juror's inability or disqualification to perform required duties, the court shall substitute an alternate juror in accordance with subsection 6. If an alternate replaces a juror who is discharged during the penalty phase deliberation, the court shall recall the jury,

seat the alternative and instruct the jury to begin its penalty deliberations anew. The jurors may not deliberate anew a verdict already reached or entered during the guilt phase of the trial. If the alternate juror was not present during the entirety of the penalty phase presentation they may not be seated and a new penalty phase with a new jury must occur.

10. Juror oath.
    When the jury is impaneled, the court shall administer the juror oath in accordance with NRS 175.111.

11. Admonishment
    The judge shall during all recesses or breaks in the trial admonish the jury as follows:

> During this recess (or break) you must not (1) discuss or communicate with anyone, including fellow jurors, in any way regarding the case or its merits - either by voice, phone, email, text, Internet, or other means of communication or social media; (2) read, watch, or listen to any news or media accounts or commentary about the case; (3) do any research, such as consulting dictionaries, using the Internet, or using reference materials; (4)make any investigation, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case on your own.

Rule 18: Court Interpreters

Approved: 10/29/19

Vote: Approved by verbal, general consent vote

1. The court shall provide, at no cost to the parties, a qualified, preferably certified, interpreter in all criminal proceedings in which any limited English proficiency (LEP) individual is involved as a defendant, witness, or juror.
2. When a defendant requires an interpreter, counsel shall advise the court of the need for an interpreter as soon as possible, but no later than 48 hours prior to an initial hearing or trial in a county whose population is greater than 100,000. In a county whose population is less than 100,000, notice shall be provided as soon as possible, but no later than 7 calendar days prior to an initial hearing or trial.
3. When an interpreter is required for a witness, counsel shall advise the court of the need for an interpreter as soon as possible, but no later than 48 hours prior to any hearing or trial in a county whose population is greater than 100,000. In a county whose population is less than 100,000, notice shall be provided as soon as possible, but no later than 7 calendar days prior to any hearing or trial.
4. Notice shall be made to the court interpreter office, court administrator, court clerk, judicial assistant, or any other person designated by the court to receive such notice.

Rule 19: Appeals

Approved: 10/29/19

Vote: 8 Yes; 1 No; 5 Abstain/No Response

1. Notice of intent to appeal. The party aggrieved by the decision of the justice or municipal court must file a Notice of Appeal within the following periods:
   (A) A criminal defendant filing an appeal of a final judgment must file the Notice of Appeal within 10 days of the entry of the final judgment or the written ruling on a Motion for New Trial or the period set by statute.
   (B) The State must file an appeal of a Motion to Suppress in the periods set by NRS 189.120.
2. Filing includes requirement to provide service. Any document filed with the court must be served on the opposing party at the time of filing. A Certificate of Service must be filed with the court at the time of filing or within 5 days thereafter demonstrating service of the pleading unless the document is filed electronically and the opposing party is participating in the electronic filing program.
3. Perfection of appeal. The following shall be filed with the court to perfect the appeal:
   (A) Defendant appeals. A defendant appealing a final judgment must file, as required by NRS 189.065, a request for hearing with the court within 60 days in the format set forth in Request for Hearing form established in these rules. The court clerk must have the matter set for hearing within 150 days.
      (1) Briefs.
         (i) The Defendant's opening brief must be filed within 45 days of filing the Notice of Appeal.
         (ii) The State's responding brief must be filed within 30 days of filing the opening brief.
         (iii) The Defendant's reply brief must be filed within 5 days of filing the responding brief. The reply must be limited to answering any new matter set forth in the responding brief.
   (B) State appeals. For the State filing a Notice of Appeal of an order granting a suppression motion, the State must file a request for hearing within 10 days in the format set forth in Request for Hearing form established in these rules. The court clerk shall have the matter set for hearing within 70 days.
      (1) Briefs.
         (i) The State's opening brief must be filed within 10 days of filing the Notice of Appeal.
         (ii) The Defendant's responding brief must be filed within 10 days of filing the opening brief.

   The State's reply brief must be filed within 5 days of filing the responding brief. The reply must be limited to answering any new matter set forth in the responding brief.

Rule 20(a): Miscellaneous Provisions

Approved: 8/27/19
Vote: 11 Yes; 0 No; 1 Abstain/No Response

Any status conference shall be held 1 week prior to the trial date, or upon further order of the court. This will provide at least 5 days' notice of the status of a pending trial to all parties and the jury office.

Rule 20(b): Miscellaneous Provisions

Approved: 9/27/2019

Vote: Approved by verbal, general consent vote

No attorney may attempt to influence a law clerk on the merits of any contested matter pending before the judge or judicial officer to whom that law clerk is assigned.